

APPENDIX B – COUNTY ORDINANCE CHANGES

The follow are the ordinance changes that will be made to assure consistency of County ordinances with the North County Plan and Biological Mitigation Ordinance. Changes are shown in strikeout/underline for the relevant sections affected.

RESOURCE PROTECTION ORDINANCE

ORDINANCE NO. 9842 (NEW SERIES)

AN ORDINANCE CODIFYING AND AMENDING THE RESOURCE PROTECTION ORDINANCE, RELATING TO WETLANDS, PREHISTORIC AND HISTORIC SITES, AGRICULTURAL OPERATIONS, ENFORCEMENT, AND OTHER MATTERS

SEC 86.604. Permitted Uses and Development Criteria.

Within the following categories of sensitive lands, only the following uses shall be permitted and the following development standards and criteria shall be met provided, however, that where the extent of environmentally sensitive lands on a particular legal lot is such that no reasonable economic use of such lot would be permitted by these regulations, then an encroachment into such environmentally sensitive lands to the minimum extent necessary to provide for such reasonable use may be allowed:

(e). Steep Slope Lands.

(2). Project Design and Open Space to Protect Steep Slopes. In designing lot configuration on steep slope lands in all land use designations, parcels shall be created in a manner which minimizes encroachment onto steep slope lands. Where 10% or more of a lot contains steep slope lands, that portion of the lot containing such lands shall be placed in an open space easement unless the lot is equal to or greater than 40 acres or a sensitive resource area designator has been applied to that lot pursuant to the Zoning Ordinance.

The open space easement shall not include any area of encroachment within the limits of the encroachment table (2)(aa). The terms of the open space easement shall provide for sufficient encroachments necessary for access, clearing, and all exceptions to the encroachment limitations identified in (2)(bb). New agricultural operations will also be allowed in such open space easements with approved grading or clearing permits, provided any other type of sensitive lands present are protected as required by the applicable sections of this Chapter. However, within the North County Plan Area, new agricultural operations associated with the open space easements will not be permitted within the PAMA.

(bb) Notwithstanding the provisions of Paragraph (aa) above, the following types of development shall be allowed on steep slope lands and shall not be subject to the encroachment limitations set forth above:

(viii). For projects subject to the Biological Mitigation Ordinance, additional encroachment into steep slopes may be allowed in order to avoid impacts to natural habitats and sensitive species that cannot be avoided by other means.

- (f). **Sensitive Habitat Lands.** Development, grading, grubbing, clearing or any other activity or use damaging to sensitive habitat lands shall be prohibited. The authority considering an application listed at Section 86.603(a) above may allow development when all feasible measures necessary to protect and preserve the sensitive habitat lands are required as a condition of permit approval and where mitigation provides an equal or greater benefit to the affected species. These prohibitions are superseded by the Biological Mitigation Ordinance for projects to which that ordinance applies.

SEC 86.605. Exemptions

- (n). The project conforms to the North County Plan with respect to impacts to vernal pools in the downtown Ramona area and has been mitigated appropriately according to the strategy outlined in the North County Plan.
- (o). If a biologically superior alternative exists such that the protection of sensitive species or habitats has greater value than the protection of low quality wetlands, said wetlands may not be required to be placed in open space. Any direct project related impacts that will occur as a result of development shall be mitigated a minimum ratio of 3:1.

GRADING ORDINANCE

TITLE 8 ZONING AND LAND USE REGULATIONS

DIVISION 7. EXCAVATION AND GRADING, CLEARING AND WATERCOURSES

CHAPTER 2. GRADING PERMITS.

SEC. 87.205. AGRICULTURAL GRADING.

(c) An application for grading plans or improvement plans for agricultural grading may be approved if the County Official makes all of the following determinations:

(12) The property owner has signed a statement under penalty of perjury (which must be reaffirmed prior to grading permit issuance) certifying the following:

(aa) His or her intention to grade for a specified agricultural operation, to continue or establish the agricultural operation within one year and to retain the land in agriculture (including changing crops and fallowing for the specified agricultural operation) for at least five years (ten

years if the land is located within the "South County MSCP Subarea" or "North County Plan Area" as defined in Section 87.803) from the date the permit is issued;

(cc) His or her acknowledgement that the County will deny any application for any non-agricultural land development, as specified in Section 87.111, for a period of five years (ten years if the land is located within the "South County MSCP Subarea" or "North County Plan Area" as defined in Section 87.803) following the date the grading permit is issued.

(dd) No grading plans or improvement plans shall be approved, if the land upon which the proposed grading is to be performed is designated as within the North County Plan Area (as defined in Section 87.803), unless the plans are accompanied by a written certification from the Director of Planning and Land Use that the Biological Mitigation Ordinance has been complied with.

SEC. 87.212. GRADING WITHIN COASTAL SAGE SCRUB HABITAT.

No grading plans or improvement plans, other than those for Minor Grading pursuant to Section 87.206 of this Chapter, shall be approved for grading on land located outside the "South County MSCP Subarea" or "North County Plan Area" (as defined in Section 87.803), unless Chapter 1 of Division 6 of Title 8 of this Code, regarding Habitat Loss Permits, has been complied with.

SEC. 87.213. GRADING WITHIN MSCP PLANS.

No grading plans or improvement plans shall be approved, if the land upon which the proposed grading is to be performed is designated as within the "South County MSCP Subarea" or "North County Plan Area" (as defined in Section 87.803), unless the plans are accompanied by a written certification from the Director of Planning and Land Use that the Biological Mitigation Ordinance has been complied with.

CHAPTER 5. CLEARING REGULATIONS

SEC. 87.502. EXEMPTIONS.

The following activities are exempt from the requirements of this Chapter:

(i) On land located outside the "South County MSCP Subarea" or "North County Plan Area" (as defined in Section 87.803 of this Division), clearing of up to a maximum of five acres, on a parcel zoned for single family residential use and improved with a single family residence. The amount of land cleared under this exemption shall not exceed a total of five acres, regardless of the number of occasions on which clearing is performed.

(j) On land located within the boundaries of the South County MSCP Subarea (as defined in Section 87.803 of this Division), clearing shall be exempt from this Division if it is exempt from the Biological Mitigation Ordinance pursuant to its terms.

(k) On land located within the boundaries of the North County Plan Area (as defined in Section 87.803 of this Division), clearing shall be exempt from this Division if it is exempt from the Biological Mitigation Ordinance pursuant to its terms.

SEC. 87.503. HABITAT PROTECTION.

No permit required by Section 87.501 shall be issued, unless first:

(a) If the land upon which the proposed clearing is to be performed is within the approved MSCP Subarea, the County Official shall assure that the Biological Mitigation Ordinance, has been complied with; and

(b) If the land upon which the proposed clearing is to be performed is not within the South County MSCP Subarea or the North County Plan Area, the County Official shall assure that Chapter 1 of Division 6 of Title 8 of this Code, regarding Habitat Loss Permits, has been complied with.

CHAPTER 8. GENERAL PROVISIONS AND DEFINITIONS

SEC. 87.803. DEFINITIONS.

(35) "South County MSCP Subarea" shall mean that area shown as the "County of San Diego MSCP Subarea" on the map referenced in Section 86.502 of this Code.

(28) "North County MSCP" shall mean that area shown as the "North County Plan Area" on the map included in the Article 2 of the Biological Mitigation Ordinance as Attachment A.

FIRE SAFETY

TITLE 6 HEALTH AND SANITATION

DIVISION 8. SEWAGE AND REFUSE DISPOSAL

CHAPTER 4. REMOVAL OF COMBUSTIBLE VEGETATION AND OTHER FLAMMABLE MATERIALS

SEC. 68.402. DEFINITIONS.

(f) "NORTH COUNTY PLAN AREA" means that area shown on the map which is "Attachment A" to Article 2 of the Biological Mitigation Ordinance.

(k) "SOUTH COUNTY MSCP SUBAREA" means that area shown as the "County of San Diego MSCP Subarea" on the map which is "Attachment A" to Article 1 of the Biological Mitigation Ordinance (found at Chapter 5 of Division 6 of Title 8 of the County Code) as referenced in Section 86.502 of the County Code and on file with the Clerk of the Board of Supervisors as Document No. 0769999.

SEC. 68.404. PROHIBITIONS/ CLEARANCE REQUIREMENTS.

(d) Additional Clearance. Notwithstanding the provisions of subsections (a), (b), and (c) of this section, if the Director determines that a greater distance is necessary to protect property or the health, safety and welfare of residents of the vicinity, the Director may require a responsible party to provide additional clearance up to the following maximum acreages on parcels which meet the following criteria:

i. Two acres, on parcels located within the Pre-Approved Mitigation Area of the South County MSCP Subarea that are ten acres and under in size and zoned for single family residential uses if the Director finds that the clearing will not interfere with the assembly of the Multiple Species Conservation Plan Preserve according to the terms of the MSCP Plan and the Subarea Plan.

ii. Five acres, on parcels located outside the Pre-Approved Mitigation Area of the South County MSCP Subarea that are ten (10) acres and under in size and zoned for single family residential uses if the Director finds that the clearing will not interfere with the assembly of the Multiple Species Conservation Plan Preserve according to the terms of the MSCP Plan and the Subarea Plan.

iii. Two acres, on parcels located within the Pre-Approved Mitigation Area of the North County Plan Area that are zoned for single family residential uses if the Director finds that the clearing will not interfere with the assembly of the North County Preserve according to the terms of the North County Plan.

iv. Five acres, on parcels located outside the Pre-Approved Mitigation Area of the North County Plan Area that are zoned for single family residential uses if the Director finds that the clearing will not interfere with the assembly of the North County Preserve according to the terms of the North County Plan.

v. Five acres, on parcels located outside the MSCP Subarea zoned for single family residential use and improved with a single family residence.

MISCELLANEOUS LAND USE REGULATIONS

TITLE 8 ZONING AND LAND USE REGULATIONS**DIVISION 6. MISCELLANEOUS LAND USE REGULATIONS****CHAPTER 1. ENDANGERED SPECIES****SEC. 86.105. EXEMPTIONS.**

Notwithstanding Section 86.102, no Habitat Loss Permit shall be required for:

- (d) Any project located within the South County Multiple Species Conservation Plan Program Subarea, adopted by the Board of Supervisors on October 22, 1997, as shown on the Boundary Map attached hereto as Exhibit A or the North County Plan Area, adopted by the Board of Supervisors on XXXXXX, as shown on the Plan Area map attached hereto as Exhibit B.